

Indiana Department of Education

Division of Exceptional Learners

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	1930.02
COMPLAINT INVESTIGATOR:	Steve Starbuck
DATE OF COMPLAINT:	June 10, 2002
DATE OF REPORT:	July 9, 2002
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	September 5, 2002

COMPLAINT ISSUES:

Whether the MSD of Warren Township violated:

511 IAC 7-21-2 by failing to ensure the individuals substituting for the special education teacher were appropriately licensed or certified to provide special education instructional services.

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) during the spring semester of the 2001-2002 school year when special education instruction was provided by the substitute teachers.

FINDINGS OF FACT:

1. The student is ten years old, will attend fourth grade this fall, and has been determined eligible for special education under the disability category of other health impairment. The student was withdrawn from school on June 1, 2002. The student will be enrolled in a different school corporation prior to the beginning of the 2002-2003 school year.
2. The parent asserts that some individuals employed by the school were not appropriately licensed or certified to provide instruction to the student during the time the special education teacher was absent from school. The student's special education teacher was absent from school for approximately 44 instructional days during the spring semester of the 2001-2002 school year. These absences occurred over a five-month period. One licensed teacher and eight substitute teachers provided the student with special education instruction during the special education teacher's absence. Information supplied by the school's Personnel Office reflects that a licensed teacher or an individual with a substitute teacher's certificate supplied instruction to the student during the time that the special education teacher was absent from school. The teacher's license and the eight substitute teachers' certificates issued by the Indiana Professional Standards Board were provided to the Division as evidence of the teachers' credentials.
3. The parent contends that, because the student did not complete all of his classroom assignments at school during the time the special education teacher was absent from school, the student's IEP was not implemented as written during this time period. However, the parent was unable to identify any specific requirements of the IEP that were not implemented. The special education teacher was both the teacher of record and the teacher of service for the student. Nine substitute teachers provided the student with special education instruction during the special education teacher's absence. The director was unable to obtain documentation from the teachers involved to verify that the student's IEP was implemented as written during the time period the special education teacher was absent from school.

CONCLUSIONS:

1. IC 20-6.1-3-2 specifies that a person may not serve as a substitute teacher without a license issued by the Professional Standards Board. Article 7 stipulates that all personnel employed or contracted by a public agency to provide or supervise the provision of special education or related services shall be appropriately licensed or certified to provide the services for which the individual is employed or contracted in accordance with standards established by the Indiana Professional Standards Board or other applicable licensing and certification bodies. Finding of Fact #2 reflects that the school ensured that individuals substituting for the special education teacher were appropriately licensed or certified to provide special education instruction to the student. Therefore, no violation of 511 IAC 7-21-2 is found.
2. Finding of Fact #3 reflects that the director was unable to obtain documentation to verify that the student's IEP was implemented as written during the time that the special education teacher was absent from school. Although a violation of 511 IAC 7-27-7(a) is found, the convening of a case conference committee meeting to determine the need for compensatory services will not be required as the student is no longer enrolled at the school corporation in question.

The Department of Education, Division of Exceptional Learners, requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The MSD of Warren Township shall:

1. Develop and implement a procedure that ensures the school will be able to document the implementation of IEPs when substitute teachers are utilized for teachers of record and teachers of service. Submit a copy of the procedure to the Division no later than August 30, 2002.